

**CITY OF MORGAN HILL  
JOINT SPECIAL AND REGULAR CITY COUNCIL  
AND SPECIAL REDEVELOPMENT AGENCY MEETING  
MINUTES – OCTOBER 1, 2003**

**CALL TO ORDER**

Mayor/Chairperson Kennedy called the special meeting to order at 5:03 p.m.

**ROLL CALL ATTENDANCE**

Present: Council/Agency Members Chang, Sellers, and Mayor/Chairperson Kennedy  
Late: Council/Agency Members Carr, Tate (arrived for Closed Sessions)

**DECLARATION OF POSTING OF AGENDA**

City Clerk/Agency Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

***City Council and Redevelopment Agency Action***

**CLOSED SESSIONS:**

City Attorney/Agency Counsel Leichter announced the below listed closed session items.

**1.**

**PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

Legal Authority: Government Code 54957  
Public Employee Performance Evaluation: City Attorney  
Attendees: City Council, City Attorney, John Shannon

**2.**

**CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION**

Authority: Government Code Sections 54956.9(b) & (c)  
Number of Potential Cases: 2

**3.**

**CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

Legal Authority: Government Code 54956.8  
Property: 215 Tennant Avenue, APN: 817-04-002  
Negotiating Parties:  
    For City: City Manager, Director of Public Works, and Attorney Gale Connor  
    For Property Owners: Robert and Teresita Carrasco and Bruce Tichinin  
Closed Session Topic/Under Negotiation: Price and Terms of Payment

**4.**

**CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

Legal Authority: Government Code 54956.8  
Property: 95 Tennant Avenue, APN: 817-04-008  
Negotiating Parties:  
    For City: City Manager, Director of Public Works, and Attorney Gale Connor  
    For Property Owners: Marko and Klara Gera  
Closed Session Topic/Under Negotiation: Price and Terms of Payment

5.

**CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

Legal Authority:	Government Code 54956.8
Property:	145 Tennant Avenue, APN: 817-04-008
Negotiating Parties:	
For City:	City Manager, Director of Public Works, and Attorney Gale Connor
For Property Owners:	Joseph Hernandez, as trustee; et al
Closed Session Topic/Under Negotiation:	Price and Terms of Payment

**OPPORTUNITY FOR PUBLIC COMMENT**

Mayor/Chairperson Kennedy opened the Closed Session items to public comment. No comments were offered.

**ADJOURN TO CLOSED SESSION**

Mayor/Chairperson Kennedy adjourned the meeting to Closed Session at 5:05 p.m.

**RECONVENE**

Mayor/Chairperson Kennedy reconvened the meeting at 7:05 p.m.

**CLOSED SESSION ANNOUNCEMENT**

City Attorney/Agency Counsel Leichter announced that no reportable action was taken in closed session.

**SILENT INVOCATION**

**PLEDGE OF ALLEGIANCE**

Mayor/Chairperson Kennedy invited former Mayor/Council Member John Varela to lead the Pledge of Allegiance.

**PRESENTATIONS**

Sal Murillo, Santa Clara County Department of Public Health, introduced John Varela a member of the County's Advocacy Group and Dolores Alvarado who will share in the presentation this evening. He indicated that the County has a two-year contract with the State of California to perform a workplan that involves community advocacy work in three communities, including Morgan Hill. He addressed the Tobacco Prevention and Education Program and the results of a survey conducted. He indicated that the County uses subcontractors such as Community Solutions to conduct community education to reduce youth access to tobacco products. He said that Morgan Hill's police department conducted an undercover purchase survey in January 2002, noting that 8 out of 18 stores sold tobacco products to minors.

Dolores Alvarado, resident and mother, addressed the role that advertisement plays on the sale of tobacco. She said that it is clear that tobacco use is a health issue relating to cancer and other health problems. She stated that it is known that tobacco advertisement and promotion often targets children and youth. Also, 60% of the tobacco industry's budget is dedicated to advertising. She requested that the City take the following actions: 1) enforce the current laws on the books by limiting window advertisement to the 25% limit; 2) strengthen ordinances to counter the proliferation of advertisement, including tobacco by banning all forms of portable signs; 3) ban all forms of tobacco from self service displays; and 4) consider licensure as a possible measure.

John Varela stated that the enforcement of tobacco control would deter violators and send a message to the public that the community leadership believes that its policies are important. He said that a number of published studies have shown that enforcing laws that restrict tobacco sales to minors and educating merchants reduces illegal sales of tobacco. It is felt that fees from licensing tobacco vendors can be used to fund enforcement activities and to develop/maintain active programs. He felt that education programs by federal, state and local authorities are necessary to build support among retailers for the enforcement of sales restrictions. These programs should include discussion of tobacco's health affects.

Nayeli Ceja, student, informed the Council that it is easy for youth to get a hold of tobacco products and cigarettes. She said that this worries her because she has younger brothers who may get a hold of these products. She requested that the City make it harder for youth to get a hold of tobacco products.

Cynthia McKenza, with the Federal Emergency Management Agency, presented a plaque to the City on behalf of the National Flood Insurance Program to recognize the City's achievement in attaining a class 7 rating in the Community Rating System. She indicated that the Community Rating System is a program that recognizes and rewards communities for exceeding Flood Plane Management Standards in a vast number of areas such as open space preservation, storm drain and its maintenance, and public outreach. She indicated that for every 500 points that a community receives there is a corresponding 5% deduction in the annual premium that an individual would pay for flood insurance. She stated that Morgan Hill received over 1,500 points (15%). This means that Morgan Hill is saving over \$20,000 a year. These savings can be attributed to the great work of the Public Works Department. Should the City be able to achieve a class 6 rating, she would return to present the City with another plaque.

Council Agency Member Chang stated that a couple of staff members did a great job in the incorporation of an art project at the Taste of Morgan Hill at the Community & Cultural Center. She thanked Director of Public Works Ashcraft for allowing his staff to conduct such a creative job (Jay Jaso and Rosemary Rideout).

### **CITY COUNCIL REPORT**

Council Member Carr congratulated the Chamber of Commerce and all the volunteers who made the Taste of Morgan Hill a successful event, noting that it takes a community effort to make this a successful event. He reported the following: 1) The Council will be conducting its first discussion on the update to Measure P. He stated that the Measure P update was a process facilitated by a task force led by Council Member Tate that took several months to put together to what he believes is a good product. He said that subsequent hearings will be important for the community of Morgan Hill to come

before the Council, asking important questions. 2) The Economic Development Subcommittee (EDS) is a subcommittee that he serves on, along with Council Member Tate that is moving forward with the Downtown Request for Proposal process authorized by the City Council. The EDS has been challenged to come back by October 15, 2003 with the first category of quick hitters whose projects can receive City assistance to move them forward. He said that even though there are projects that would take a little longer to succeed, they are ones that would be exciting to the community, especially the downtown area for the implementation of the newly updated Downtown Plan. 3) He stated that he serves on the South County Joint Planning Advisory Committee. He indicated that the Committee will be holding its next meeting on October 9 and that a number of reports will be presented at this meeting. One report will be on the future of South County as the San Martin incorporation efforts, through the San Martin Planning Advisory Committee, will come before this Committee and address their efforts in moving forward with possible incorporation of the San Martin area. The City of Morgan Hill will address the Urban Limit Line. The latest update on the Urban Limit Line will be presented by Mayor Kennedy and Mayor Pro Tempore Chang. He said that the Chair of this committee, Supervisor Don Gage, will be presenting an update on VTA, including possible reductions to transportation services for South County.

Mayor Pro Tempore Chang indicated that the South County Regional Wastewater Authority (SCRWA) will be conducting a workshop to discuss short and long term goals, particular, how to discharge wastewater. It is her hope that the City Council will hold a meeting prior to the scheduled SCRWA workshop. She indicated that there were two issues: 1) how the discharge is going; and 2) that the Water District may be interested in a treatment facility, to be owned by them, at a cost of \$2 million for reclaimed/treatment of water. She felt that the Council needs to discuss these issues.

Mayor Kennedy stated that the Urban Limit Line/Greenbelt Committee held a meeting last Monday night. The Committee is now wrestling with the establishment of a greenbelt around the City. He said that progress has been made in the establishment of an urban limit line/ultimate growth boundary for the City on the west, north and the northeast but that the southeast corner will be a lot more difficult.

### **CITY MANAGER REPORT**

City Manager Tewes indicating that a significant milestone occurred with the development of the aquatics complex. This milestone is the installation of a web cam on the City's website that can be viewed on the city's web page that will allow individuals to view a live video feed of the construction taking place at the aquatics complex on a daily basis.

### **CITY ATTORNEY REPORT**

City Attorney Leichter informed the Council that there may be individuals who would be waiting for item 13 to be called relating to conducting a hearing and considering the adoption of a resolution of necessity for several properties along the Tennant Avenue widening project. She indicated that staff has received two written comments that are fairly substantive in the past couple of days. Based on these written comments and the need to evaluate these comments, staff would be requesting that this item be pulled from the agenda as staff needs to conduct additional research. She indicated that the Council may wish to consider item 13, out of turn, to release those individuals in attendance from sitting through a lengthy meeting.

## **PUBLIC COMMENT**

Mayor/Chairman Kennedy opened the floor to public comments for items not appearing on this evening's agenda.

Lanette Smith inquired why the City of Morgan Hill does not offer CPR or first aid classes to its residents. She indicated that she had to go to the City of Gilroy and pay them money to receive CPR/first aid certification. She felt that every resident should have these classes offered to them in their own community, promoting a better economy and possibly save lives.

City Manager indicated that CPR and first aid classes are offered in the community.

No further comments were offered

**Action:** Mayor Kennedy **moved** up agenda item 13.

### **13. CONDUCT HEARING AND CONSIDER ADOPTION OF RESOLUTION OF NECESSITY FOR PROPERTY ACQUISITION FOR PROPOSED TENNANT AVENUE WIDENING**

City Attorney Leichter indicated that it is staff's recommendation that this item be removed from the agenda. This item will be renoticed and given appropriate notification when staff brings this item back for Council consideration.

**Action:** On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (5-0), **Tabled** this item.

## ***City Council and Redevelopment Agency Action***

### **CONSENT CALENDAR:**

**Action:** On a motion by Council/Agency Member Tate and seconded by Council/Agency Member Carr, the Council/Agency Board unanimously (5-0) **Approved** Consent Calendar Items 1-10, as follows:

#### **1. AQUATICS COMPLEX LEEDS CERTIFICATION**

**Action:** **Information Only**, Staff Will Report Back To Council Later During The Construction Period Prior To Deleting Leeds Certification.

#### **2. RESOLUTION OF INTENT TO VACATE A PORTION OF BARRETT AVENUE AND SET TIME AND PLACE FOR PUBLIC HEARING – Resolution No. 5721**

**Action:** 1) **Approved** Resolution No. 5721, Intent to Vacate a Portion of Barrett Avenue, Thereby Setting October 15, 2003 at 7:30 p.m. in the Council Chambers as the Time and Place for the

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Public Hearing; and 2) **Directed** the City Clerk to Publish the Resolution of Intent as Required by Law.

3. **ACCEPTANCE OF THE DOWNTOWN TRANSIT CENTER AT-GRADE PEDESTRIAN PROJECT**

**Action:** 1) **Accepted** as Complete the Downtown Transit Center At-Grade Pedestrian Crossing Project in the Final Amount of \$129,436; and 2) **Directed** the City Clerk to File the Notice of Completion with the County Recorder's Office.

4. **ACCEPTANCE OF SIDEWALK, CURB & GUTTER REMOVAL AND REPLACEMENT, PHASE II 2002-2003 PROJECT**

**Action:** 1) **Accepted** as Complete the Sidewalk, Curb & Gutter Removal and Replacement, Phase II 2002-2003 Project in the Final Amount of \$61,253; and 2) **Directed** the City Clerk to File the Notice of Completion with the County Recorder's Office.

5. **AUTHORIZE AGREEMENT TO INSTALL A FIBER OPTIC LINE TO THE NEW POLICE FACILITY**

**Action:** 1) **Authorized** the City Manager to Prepare and Execute an Agreement, Not to Exceed \$35,000, to Install Fiber Optic Line and Two I-Net Hubs to Nearest City Hub for the New Police Facility, Subject to City Attorney Review; and 2) **Approved** up to a 15% Increase (\$5,250) in the Agreement for Unforeseen Conditions.

6. **SUBDIVISION APPLICATION SD-03-06: CENTRAL-CENTRAL PARK**

**Action:** **Took No Action**, Thereby Concurring with the Planning Commission's Decision Regarding Approval of the Subdivision Map.

7. **SUBDIVISION APPLICATION SD-03-07: SUNNYSIDE-QUAIL CREEK DEVELOPMENT**

**Action:** **Took No Action**, Thereby Concurring with the Planning Commission's Decision Regarding Approval of the Subdivision Map.

8. **APPROVAL OF RESOLUTION TO IMPLEMENT THE PROVISIONS OF SECTION (414)(h)(2) OF THE INTERNAL REVENUE CODE WITH THE BOARD OF ADMINISTRATION, CALIFORNIA PUBLIC EMPLOYEE'S RETIREMENT SYSTEM**

**Action:** **Adopted** Resolution No. 5722.

9. **ADOPT ORDINANCE NO. 1635, NEW SERIES**

**Action:** **Waived** the Reading, and **Adopted** Ordinance No. 1635, New Series, and **Declared** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING SECTION 3.56.130 of CHAPTER 3.56 (Development Impact Mitigation Fees) of TITLE 3 (Revenue and Finance) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL REGARDING EXEMPTION OF CONVERSIONS OF RESIDENCES TO COMMERCIAL USES AND/OF**

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***ADDITION OF LIMITED INCREASED SPACE IN STRUCTURES LOCATED IN CC-R DISTRICT FROM DEVELOPMENT IMPACT MITIGATION FEES.***

**10. ADOPT ORDINANCE NO. 1636, NEW SERIES**

***Action: Waived the Reading, and Adopted Ordinance No. 1636, New Series, and Declared That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING SECTION 12.02.190 (Exceptions) OF CHAPTER 12.02 (Street and Sidewalk Development) OF TITLE 12 (Streets, Sidewalks and Public Places) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL REGARDING EXEMPTION OF CONVERSIONS OF RESIDENCES TO COMMERCIAL USES AND/OFF ADDITION OF LIMITED INCREASED SPACE IN STRUCTURES LOCATED IN CC-R DISTRICT.***

***City Council and Redevelopment Agency Action***

**PUBLIC HEARINGS:**

**11. DEVELOPMENT AGREEMENT, DA-03-07: CENTRAL-CENTRAL PARK – Ordinance No. 1637, New Series**

Planning Manager Rowe presented the staff report, recommending approval of the development agreement.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

**Action:** On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) **Waived** the Reading in Full of Ordinance No. 1637, New Series, Approving DA-03-07: Central-Central Park.

**Action:** On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council **Introduced** Ordinance No. 1637, New Series, by title only as follows: ***AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING DEVELOPMENT AGREEMENT, DA-03-07: CENTRAL-CENTRAL PARK (APN 726-27-104 & 105) by the following roll call vote: AYES: Carr, Chang, Sellers, Tate, Kennedy; NOES: None; ABSTAIN: None; ABSENT: None.***

**12. DEVELOPMENT AGREEMENT, DA-03-08: SUNNYSIDE-QUAIL CREEK DEVELOPMENT – Ordinance No. 1638, New Series**

Planning Manager Rowe presented the staff report, recommending Council approval of the development agreement.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

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**Action:**        *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) **Waived** the Reading in Full of Ordinance No. 1638, New Series, Approving DA-03-08 for Application MP-02-24: Sunnyside-Quail Creek.*

**Action:**        *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council **Introduced** Ordinance No. 1638, New Series, by title only as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING DEVELOPMENT AGREEMENT, DA 03-08 FOR APPLICATION MP 02-24: SUNNYSIDE-QUAIL CREEK. (APN 767-29-006)** by the following roll call vote: *AYES: Carr, Chang, Sellers, Tate, Kennedy; NOES: None; ABSTAIN: None; ABSENT: None.**

## ***City Council Action***

### **OTHER BUSINESS:**

#### **14.    UPDATE OF THE RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (MEASURE P)**

Planning Manager Rowe presented the staff report, recommending that the City Council receive public testimony, provide comments to staff by minute action, and continue the review of the proposed amendments to the Residential Development Control System (RDSCS) to the October 15, 2003 Council meeting. He addressed the proposed changes to the initiative. He indicated that a voter survey was conducted to gauge voter support for the most significant amendments proposed by the Measure P Update Committee, conducted by the San Jose State University Foundation. He said that approximately 608 residents were contacted and that overall, the survey suggests that Morgan Hill voters are supportive of the extension of Measure P and many of the proposals to the update. Two of the areas where the voter response was not supportive were: 1) concentration of development in the downtown; and 2) the elimination of the east/west split. At the community workshop, significant comment were received about the provision which limits development potential of a particular area, specifically properties which were brought into the urban service between March 1, 1990 and the effective date of Measure P (1990). He indicated that there was also a petition received from residents in the Fountain Oaks area that requested that provisions be retained and extended through the extension of the RDSCS.

Planning Manager Rowe indicated that the proposed initiative is divided into three sections: Section 1 includes the findings and purposes of the initiative; Section 2 includes amendments to the proposed General Plan; and Section 3 includes amendments proposed to the RDSCS. He informed the Council that there are three significant changes that are proposed to be included in the update that were not previously reviewed by the Council. The first change relates to school impacts. He stated that Senate Bill 50, the School Facilities Act, significantly limits the City's options regarding mitigation for school impacts. The second change clarifies the intent of the single dwelling unit exemption and incorporates the provisions that are consistent with Council policy on how one unit dwellings are defined. The third change relates to the proposal of urging community members to extend the provisions that limits the level of development of properties which were included in the urban service area after March 1990. He indicated that the Planning Commission is recommending changes to 8 of the 24 original proposed

amendments, noting that there was disagreement with two of the changes: Sections 7 and 11. He stated that the Planning Commission is recommending some changes to Section 11 dealing with desirable infill to provide more flexibility. The Planning Commission also recommends that the period for the installation of public improvements considered as benefits as a requisite for inclusion into the city within a five-year period as opposed to the four-years as originally recommended. He informed the Council that the final version of the proposed changes went before the Planning Commission on September 9 and September 23. The Planning Commission is not recommended any substantive changes and that those changes are being recommended are shown in italics in the document.

Council Member Tate, Chairman of the Measure P Update Committee, stated that he would walk through every area being recommended for changes that are significant and may generate discussion.

- Take the population cap from 38,800 in 2010 to 48,000 in the year 2020 to be in line with the General Plan and everything that the Council has endorsed all along. He noted that the population cap was one of the driving forces for updating Measure P to begin with.
- Simplify the RDSCS process in terms of staff work required. Instead of requiring an annual competition that can award up to two-years of allocations, the proposed amendment states that it can be either an annual competition or a biannual competition. If a biannual competition, allocations can be made into a third year. It is the intent to give the City the flexibility of not having to hold competitions every single year.
- It was found that the allocations were front loaded. In the beginning years of Measure P, the City was able to allocate 270-280 units. Towards the end, the City could only allocate less than 100. The Committee wanted to make a smooth slope in terms of the allocations out to the year 2020. The Committee made some adjustments regarding how the City counts previously awarded allotments that have not yet been built in order to achieve a “smoothing” affect and to have a more continuous growth.
- Recommend the elimination of the east/west split. He noted that there are far fewer vacant lands available on the west side of Monterey Road. Having 1/3 of the allocations being forced onto the west side was allowing units to win the competition with much lower scores than any projects on the east side of Monterey Road. Where there is vacant land on the west side, it is usually far from north/south of town, getting away from one of the City’s goals to get more central development from the City’s core. He said that there was long discussion in meetings where this issue was discussed. However, the final recommendation of the Committee was the elimination of the east/west split in order to have the allocations distributed more evenly.
- Proposed amendments to be in sync with the Downtown Plan as well as the future greenbelt study not yet completed. The proposed amendments encourages downtown set asides and makes it a requirement for the first few competitions through the year 2010. After this time, development in the downtown will be optional, but encouraged.

- A recommendation that would make provisions for the three fully developed areas located within the City that are already receiving services be annexed without counting their population against the population cap for the City. These areas include Holiday Lakes Estates Unit 1, Casa Lane and El Dorado III. He said that including this language into the measure caused a lot of updates to the measure and includes new verbiage in the measure to accommodate this objective.
- The recommendation of a vertical mixed use project. There is provision to award up to 10 vertical mixed use units per year on a first come, first served basis. A vertical mixed use project would consist of residential units being constructed upstairs with retail or commercial downstairs. If applications are not received, the units can be accumulated up to a maximum of 20 allotments. However, only 15 can be allocated in any given year. This would encourage what the Downtown Plan was trying to achieve. It is not proposed to limit the vertical mixed use to the downtown. However, it was felt that the downtown would be the natural place as it is not expected to see vertical mixed uses proposed elsewhere in the community.
- Tighten the public benefit for desirable infill. He stated that there are provisions for annexing up to 20 acres or less into the City if they meet certain criteria. One of the criteria would be that there has to be some public benefit to the annexation. It is recommended that the City realizes the public benefit and that the property not just sit vacant after annexation whereby, the City never realizes the public benefit. A provision is being recommended that the City wants to realize the benefit whenever property develops or within five years, whichever occurs first.
- There were some minor adjustments to the point scores. The Committee recommends increasing the point scoring from 5-10 for public safety; decreasing the points under the Natural & Environmental category by 5 points; and the addition of a new 10 point category that addresses livable communities, smart growth concept, and a subjective measure of project excellence. He said that the maximum point for each category is defined in the measure itself but that the actual criteria that makes up these points is a subject that has been debated. He indicated that committees have been formed in prior years consisting of Planning Commissioners and community members who revisit the criteria every year to make sure that they are up to date and reflects what the community wants. He stated that the measure only decides what these categories are and the total number of points to be awarded for each category.
- There is a requirement in Measure P to meet a minimum score, noting that the minimum score varies depending in which category a developer is competing in (e.g., single family detached homes, attached homes, etc.). The Committee set the minimum passing scores a little higher to confirm to what the City's experience has been. He indicated that the City has not received applications with very low scores but that it is being proposed that there be a minimum score, setting the bar higher.

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- Adjustment to the award language to provide a little more flexibility and to conform to current practices. To follow the language contained within the measure would require that the City conduct a sequential total score allocation to the winners. This does not work when you try to balance the number of units that the various developers are requesting based on the number of allotments available. He noted that it has been the City's practice to dip into allocations available.
  - He stated that custom projects have been a problem, noting that not many applications have been submitted for these set asides. However, whenever the City awards allotments to custom lot projects, it takes longer than the couple of years allowed to develop. The Committee recommends the addition of two years, extending development to 24 additional months before the developer has to commence construction for custom lot projects.
  - Adjustment to the core area used to determine orderly and contiguous growth. He stated that the core area had been a broad area, extending from Madrone to Tennant Avenue. The Committee proposes to tighten the core area to conform to the Downtown Plan and the nature of smart growth in downtown areas. The core area has been defined north to Wright Avenue, south of Cosmo, east to Butterfield Boulevard, and west to Del Monte Avenue. This results in a more constricted core area.
  - Established compatibility and synergy with the Downtown Plan and the Urban Limit Line.

Mayor Kennedy complimented the Measure P Update Committee for a long and difficult process. He understood that there were a lot of tough/controversial issues that were addressed and resolved.

Council Member Sellers felt that an outstanding job has been done and that he was pleased that the Downtown Plan elements were encapsulated. He understands that the vertical mixed use is a new concept and stated his support of the concept. He was pleased that the Committee recommends vertical mix use where residential can be located above commercial. He felt that this was a concept that makes a lot of sense in the core area. He inquired whether the City would preclude the development of a vertical mixed use that is only viable at 18+ residential units. He inquired how the Committee arrived at the number and what would be the mechanism to modifying the maximum number, if there is a need to do so.

Council Member Carr stated that the vertical mixed use was a consensus building item among the Committee. He indicated that the Committee consisted of a broad coalition of individuals throughout the community with varied interests at the table. This Committee spent a considerable amount of time working on this product and worked well together. He stated that this was an area where consensus was one of the driving factors toward arriving at the numbers. However, he felt that a lot of the recommendations had to do with the realities of where a vertical mixed use project would develop in Morgan Hill. He felt that vertical mixed development is limited to the downtown area and that even within this area, would be limited. If a project only penciled in with 18 units, the developer has the ability to develop based on the way the RDC is structured to carry over allotments. He did not believe that anyone expected that this would be a category where there would be a stampede of applications. He

felt that vertical mixed use would naturally allow flexibility because of the limited nature of applications that would be competing within this category.

Council Member Sellers stated that the product that would be developed in the downtown area should be different from the kinds of housing that would develop in other parts of the City such as transit oriented development or a livable community concept. He stated that it did not sound as though the City would be restricting its ability to define a different set of criteria for the downtown area in terms of architectural features or any other criteria. He inquired whether the City would be restricting itself in anyway in the development of mixed vertical use projects that can be foreseen at this point. He wanted to make sure that there is flexibility within the criteria to allow development of vertical mixed housing in the downtown.

Council Member Tate said that although the total points and guidelines are set within the measure, the criteria is reviewed every year and adjusted, as needed. He noted that the draft measure sets the maximum size of a mixed use project as 15 to be eligible for this set aside. If a project is larger than 15 units, it would need to compete under a different set aside.

Council Member Carr said that although there is a set aside for the downtown area, the criteria should not be any different for the downtown. He said that the uniqueness of the downtown will work its way into getting points that other projects cannot achieve. He said that with the new proposed category of livable community, adjustments of other points, tightening up the core, and making it an important aspect in the competition would help facilitate vertical mixed use development. He said that tightening up of the core was the trade off for eliminating the east/west split and that it was a valuable tradeoff in this update.

Mayor Kennedy inquired whether there was a new formula being proposed to flatten the curve versus having the allocations being front loaded.

Council Member Tate said that the Committee is not suggesting counting the houses already allocated and not yet built. This went a long way to front loading the number of allocations available in a given year.

Mayor Kennedy said that for some time there has been some confusion with the terms “allotments” and “allocations.” He indicated that he sees the term “allotment” being used in the front part of the measure and inquired if this was the term to be used versus the term “allocation.” He inquired whether the Committee discussed the City Council appeal process. He noted that the only change that can be made by the Council is changing the point evaluation and not the allotments.

Council Member Tate indicated that there was a lot of discussion about these words but that he did not go through the draft to make sure that the wording is consistent. He further noted that the allotments are approved by the City Council.

Council Member Carr stated that the issue of the appeal came up in the most recent round of Measure P appeals. He noted that the Council considered the appeals after the Committee concluded its meetings.

Therefore, the Committee did not have the benefit of going through the experience of the recent appeal hearings for consideration.

Mayor Kennedy opened the floor to public comment.

Chuck Dillmann offered the following questions: He inquired whether the 48,000 population cap to 2020 was part of an integrated assessment of the City and its needs. Does the 48,000 population support the industrial growth plan that is needed to support the City's financial growth? Is there a 10-year financial plan that matches this? How does the 48,000 population cap match with the City's infrastructure? Will the 48,000 population require a new sewer plant or could a new sewer plant accommodate a population of 60,000? He felt that the phasing of the population would be dictated by City personnel, including police. He felt that the 48,000 population was one of the City's extrapolation of past history. He stated that the new library is proposed to be a 40-year library, sized for 50,000 individuals, noting that the library service area goes up to San Jose and down to San Martin. Therefore, he did not believe that this was consistent. He noted that the vertical mixed use appears to encounter a penalty on points as he felt that the vertical mixed use may be the best situation for a lot of areas in town. He noted that the Council discussed taking in certain development. If this is a plan to control population growth as opposed to an infrastructure plan, the Council could take in any existing development without factoring it into the 48,000 population.

Ralph Lyle indicated that he served on the Measure P Update Committee. He noted that a question was raised about the vertical mixed use and where the 15-unit limit came from. He stated that he was the source of the paragraph relating to vertical mixed use. He said that there was a planning commissioner who was interested in projects that would develop existing buildings (e.g., 2-6 units). This planning commissioner felt that there was a problem in trying to sync mixed use projects with other uses. The emphasis on mixed use development would be on a first come, first served basis for small projects, similar to the small project category seen today. Through the course of Committee meetings, the 6-units were increased to 15. He felt that there was a notion that as a mixed vertical use projects got to a size that exceeded 15 units, they should fall under a different set aside and not be included with the first come, first serve set aside as it would now be considered a large project. He stated that this compromise was a difficult one for the Committee.

Regarding the population adjustment, Mr. Lyle said that in the past, there were a number of sources of error as to why the City ended up over allocating in the beginning of Measure P. He noted that there were a certain number of units built outside of the RDCS. These are predictable and could be subtracted out when reviewing the allotments. The other errors came out because the formula was strictly based on the Department of Finance estimates. In the past, when there were bad times, the back logs of unbuilt units got large and were not accounted for. He indicated that the changes included in the measure would take the back log into account in order to remove a number of sources for error. He said that there are some things that can take place that could introduce errors, but that it is hoped that the numbers would be tracked closer. He said that staff would be working on this to try to make the numbers more precise. He indicated that the 48,000 population was based on the General Plan, noting that this was a very comprehensive study to address the City's needs of housing and jobs.

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Mayor Kennedy requested that Mr. Lyle respond to the comment made by Mr. Dillmann about the housing control not being balance based on more industry causing more pressure for housing.

Mr. Lyle stated that the General Plan had the best prediction it could of what is likely to happen with industry and how this compares to jobs and goals for the ratio.

Mayor Pro Tempore Chang stated that she did not want to front load the measure as the City would exceed 48,000 in the sixth year. She said that if you look at the 48,000 population number and the way the City is growing, it will just meet ABAG's requirement. She stated that she was comfortable with the numbers as the City's numbers correspond with ABAG's number as they increased the jobs projection and decreased the housing needs.

Mayor Kennedy said that for many years, the City has had a housing/jobs imbalance as there were more housing units than there were jobs. Therefore, the City was not concerned about placing a limit on industrial growth. As the City has successfully brought in more businesses and more jobs, the City is now closer to a jobs/housing balance.

Council Member Carr said that in the three years the City went through the General Plan Update, the City took these issues into account. He stated that the ratio of acreage currently zoned for residential versus industrial and other uses is based upon the concerns relating to the jobs/housing ratio. He said that one of the things that has been beneficial about this Measure P update is that a lot of items were tied together. He said that the City is trying to make this RDCS update work with the General Plan, taking into account the updates to the Downtown Plan, leaving out specific areas that will come out of the urban limit line. Another consideration taken into account was the fact that the proposed amendments would help the City's housing element get approved. The Committee took into account other work that has occurred in the city, incorporating sections of other documents within this document.

Council Member Tate clarified that the 48,000 population came out of the General Plan. He stated that the rate of growth to 48,000 would be fractionally a percentage lower than the rate of growth to the 38,800 population at year 2010. He clarified that vertical mixed use projects are not competing for points as this set aside would be on a first come, first served basis and that a vertical mixed use only needs to achieve the minimum number of points. Therefore, the City is encouraging vertical mixed use projects.

Mr. Lyle said that there were a number of changes made that should benefit vertical mixed use (e.g., natural environmental points were reduced, will benefit from the orderly contiguous changes). He said that there were many changes proposed that would benefit the Downtown Plan where most of the mixed used projects would develop.

Rocke Garcia, Glenrock Builders, stated his objection to the elimination of the east/west split. He recommended that the Council adopt a measure that would lessen the east/west split to approximately 15%. Allowing houses to be built on the west side by a certain percentage would spread housing throughout the community. He agreed that it has been easy for projects to be awarded units on the west side of Monterey Road as it has been only he and Mr. Schilling who were competing for development on the west side. It was his opinion that the way the measure has been drafted, the east side would

dominate even though the core area has been constricted. He requested that the Council consider amending the east/west split in order to guarantee some homes being built on the west side by setting aside allotments to west side development. He said that his Capriano project is a successful project thus far. If this was to be a new project, he would not be able to score high enough to continue this project.

Mayor Kennedy inquired where a change would be made in the draft RDCS language to address Mr. Garcia's request for 15% west side, set aside recommendation.

Mr. Garcia referred the Council to page 182 of the agenda packet where a possible amendment could be made.

Council Member Tate stated that the Committee wanted to see the current projects underway completed. The Committee felt that the criteria contained enough flexibility to give additional weight to on going projects to make sure that they are completed. The Committee felt that this was the way to address Mr. Garcia's concern rather than retaining the east/west split.

Mr. Garcia understood that the proposed amendments would allow on going projects to continue. His concern addressed new projects on the west side as they have a tough time competing.

Council Member Carr agreed that emphasis was placed on completing on going projects. When it comes to new projects, it is a competition and that the highest scoring projects would receive the allotments.

Mayor Kennedy noted that under the current Measure P, completing on going projects is for a limited time frame that would eventually go away. Yet, the proposed amended RDCS would last many years longer. He wondered whether this was a valid argument.

Council Member Tate said that the argument presented by Mr. Garcia to the Committee was completing his on going project. He said that the Committee recommended provisions for on going projects and to have a level playing field for any project proposed within the City.

Mr. Garcia agreed with the level playing field concept. However, he felt that the level playing field will end up being concentrated in one area and would not spread new housing throughout the community.

Mayor Pro Tempore Chang felt that the Council was changing the scope of Measure P, noting that there seems to be a greater focus on a downtown competition.

Council Member Carr said that there was emphasis placed on the core of Morgan Hill, noting that this is not a change. He said that within the language of Measure P there is an emphasis to the core and contiguous development. He indicated that the City has allowed this emphasis to be flexible over the years. He said that it was not easy to eliminate the east/west split but that the committee wanted to recapture the importance of building in the core area and having contiguous development, avoiding sprawl and building on the outskirts of the City. The relationship to the core was important and not whether development occurred on the east side or west side of town.

No further comments were offered.

Mayor Kennedy addressed Section 18.78.130, the appeal procedures. He noted that the last sentence states that “The Council may affirm or modify the allotment evaluation and its decision shall be final and conclusive.” He indicated that the Council recently went through an appeal process with a couple of projects. An argument was made that the Council could not change the award of allotments but only change the points. He recollected that the Council recommended that the allotments be changed as a result of the appeal.

Council Member Tate indicated that the Council approves the allotment upfront prior to conducting a Measure P competition.

Planning Manager Rowe stated that the number of allocations for a given competition are established by the Council prior to the competition and that the Council also determines the different set aside categories. To include an appeal of the distribution of allotments at the Council level would require that the Council look at the entire distribution and not just the appellants’ application because there are many different factors that go into the evaluation process, as well as scoring the projects. There is also the consideration that a certain number of allocations have to go to small projects and the other identified set aside categories, including set asides for ongoing projects. He said that there are different factors that weigh into how the allotments are distributed as well as the instructions that the Council provides prior to each competition year. If the Council is going to consider appeals and award allotment, the Council would need to take on the evaluation process, review, score, and rank all projects to determine which projects would receive the allocation, noting that this is a lot of work.

Mayor Kennedy inquired whether the Council has the authority to change the actual award of allotment.

City Attorney Leichter responded that under the current Measure P, the Council does not have the authority to award allotments. She indicated that Section 18.78.130 has always been interpreted by staff and previous councils to refer to the appeal of point scores.

Mayor Kennedy stated that it was his understanding that allotments and allocations have the same definition.

Planning Manager Rowe indicated that the language states that you can use the term “allotment evaluation.” He said that the allotment is based on the evaluation. As it is the allotment evaluation that is appealable, staff has interpreted this as meaning the evaluation of the points given to a project under the 13 categories. The Council can therefore modify the scoring of a project.

City Manager Tewes indicated that Mayor Kennedy raised the same question at the time of the Measure P appeals as to the interpretation of this particular section. He said that if there is any ambiguity and the Council wants to clarify this section, now is the time to talk about it. He stated that it has been consistently held that the allotment evaluation means “points.”

Mayor Pro Tempore Chang stated that it was her belief that there was a difference between the term allotment and allocation.

Planning Manager Rowe noted that one of the comments made was that staff goes through the document and that a consistent wording be used (e.g., allotment or allocation).

Mr. Lyle said that it was his belief that there is a difference between the term “allotment” and “allocation.” Unfortunately, in the document itself, he felt that there were places where the terms are misused. It was his belief that an allocation was more of a process as one would be allocating something. The use of allotment is the term that actually builds a unit. He said that it was the intent of the Measure E language for the scores to go to the Council and not the allotments. Specific rigid language was written into Measure E for how the allotments could be given so that there would be no gerrymandering with the allotments. He stated that the same language was kept in Measure P. Therefore, both Measure E and P state that this was not a Council prerogative. He clarified that the Measure P formula determines the number of allotments available in a given year based upon the Department of Finance population figures. The City Council, based upon input from the Planning Commission, takes the number of allotments and divides them up into set asides. Therefore, the City Council determines how many units are to be reserved for each of the set asides. The scoring is conducted by the Planning Commission with the scoring returning to the Council for adjustments in the appeal process. Based upon the scores, there is a determination on how the allotments should be given out, with no flexibility being given to the Planning Commission or the City Council based on Measure P. He indicated that the City has been more flexible than is stated in Measure P. He said that one of the modifications proposed in the language before the Council is to confirm this language. The modification incorporates flexibility and moves it away from the rigid formula. It states that the Planning Commission and City Council has the flexibility to modify the allotments.

Council Member Tate clarified that the flexibility added did not change the number of allotments or the categorization of the allotments.

Council Member Carr further clarified that the current language does not add additional flexibility but incorporates the current practice into the language. He said that the situation experienced with the appeal process this past year was attributed to the timelines being pushed back on several different fronts. This resulted in the Planning Commission going ahead in proceeding with the allocations based on the points before the Council held its appeal hearings on the points. The City had an appeal process where allocations were already granted. This placed the Council in a bind to consider the appeals. He felt that the City needs to work on the timeline and the process. He noted that Mr. Lyle laid out how the process is supposed to work. He felt that the process would work well if the Planning Commission scores the project and the points are awarded based on the competition. If there are appeals, the Council should consider the points before any allocations are given out. If the Council approves the appeals and points are changed, he felt that the ranking needs to be changed prior to any allocations being given out. He noted that this year, the process was conducted in reverse because other issues pushed the process back. This resulted in the City being rushed in order to meet timelines and the next steps in the process.

Mayor Pro Tempore Chang recollected that in some years the Council tapped into the next year's allocation based on the fact that there were large projects.

Mr. Lyle indicated that the Council does have the right to allocate into a second year as Measure P contains specific language that states that if it is not economically feasible for a project to proceed with a partial allocation, the Council may allocate into a second year. Allocating into a second year occurs for a project that has an allotment in a prior year. He said that with the proposed changes, a project does not need to have a prior year's allocation (e.g., a project that got started in the second year instead of the first year, resulting a continuation of allotments into a third year).

City Attorney Leichter stated that there is nothing built into Measure P now or that is being suggested to state that the City would raise a project's score and be given allotments.

Dick Oliver indicated that he was a member of the subcommittee and has been an active developer who has submitted Measure E/P applications for the past 15 years. He felt that the process has worked exceptionally well with regards to the appeal and the award of allotments. He said that the Council, based upon the Measure P criteria and the state population figures, determines the number of allocations in a given competition. The Council also determines the number of set asides (e.g., downtown, affordable housing, attached units, etc.) and forwards these numbers to the Planning Commission. The Planning Commission sends out a memorandum on how projects will be scored and information on the competition. The Planning Commission evaluates each project and determines the number of points to be given to each project. These points can be appealed to the Council who can modify the points. The Planning Commission then makes the allocation for the distribution of allotments to the various projects. He said that the problem the City faces is that it appears that it is mandatory that the City grants all units requested to the top scoring project. He said that it has been past practice that it would not be in the best interest of the community to give all allotments to the highest scoring project. The allotments are granted such that several new projects are approved versus having one project being allowed to proceed with construction. He felt that this process has worked well.

Mr. Oliver stated that this is the first year that he has experienced where you have a nature of the appeals as they were heard. The Planning Commission and the City Council took ten times the amount of time to listen to one applicant make an argument for their position. Under the appeal hearing, the City allowed the appellant to make their presentation for as long as they wanted. He felt that this was unfair because the City Council did not have any of the background about what the other applications looked like nor the entire background process. The Council felt that the appellant's duet project was needed and that it tried to find a way to give it a higher score to allow it to be built. This would result in the Council politicizing the allocation process. He felt that this would foul up the Measure P process as it will place pressure on every Council member to hear every developer state why their project is the best, requesting that the Council change the scoring allocation system. He said that the process, as exists today, works fairly well and is equitably determined. He said that project proponents can appeal points with the allocations going back to the Planning Commission to be made based on the language contained in Measure P. The distribution would not be appealed to the Council. He felt that this system has worked for the community. Should the Council wish to modify this process, it would extend the process and the Council would be pressured by each developer who thinks that their project is the best and try to change the allocation outcome.

Council Member Tate agreed that the use of the terms allotments and/or allocations should be used consistently. He felt that the Council has the say to set the number of allotments/allocations at the front

end of the process. This sets the rules by which the competition is played. If the Council comes in at the back end and states that it has the right to adjust the allotments at this point in time, the Council would be changing the rules. He agreed that this would be gerrymandering to the extreme. He could not see changing the rules at the back end of a competition as it does not seem to be a fair way to proceed. He felt that the Measure E/P drafters were adamant that they wanted to depoliticize the process and stated his support of this.

Mayor Kennedy felt that the Council needs to decide on the term to be used. He noted that the City has consistently used the term allotment in the language of the revisions. He agreed that both words may mean the same although the City has been using them in different contexts for different meetings, using the term allocations to discuss the process. He did not see the term “allocation” being used in the proposed text amendments. He recommended that the term “allotment” be used for consistency and common language. With respects to the Council addressing appeals, he felt that an appeal does not mean a thing if you cannot change a thing. He did not believe that it was an appeal if it goes back to a decision of the Planning Commission. He did not believe that this gives the Council the ultimate discretion. He said that he understood the arguments that have been made. He stated that he was not necessarily suggesting a lengthy discussion on this issue but that it appears to him that the language, as written, is not the proper language for what is actually occurring. If this was the language under the original Measure E, he felt that it was intended to give the Council some discretion. However, he noted that the Council has not been allowed this discretion. He felt that it should be made clear that there is no appeal to the Council. He said that if all Council Members agree that the Council may change the point evaluation, the language should be modified to state so and strike out the word “allotment.”

Council Member Carr said that in his three years serving as a Council Member, this was the first Measure P appeal he has evaluated. It does not sound like the Council has had this significant of a problem with appeals in the past. He felt that the difference in this appeal process was the fact that allocations were given out before the Council considered the appeal. This placed him in a tough place because he wanted to consider the appeals on their merits. He felt that the City had already given out all of the units available based on the process that was determined at the beginning and the rules that everyone was playing by. Yet, the Council had this appeal process that it needed to go through. He did not want the appeal process to be for show as it needs to be a legitimate process. If the Council fine tunes the process where this does not happen again, the Council can hear the appeals at the appropriate time so that the appeals are based on the competition and the points. This would result in the point total being given back to the Planning Commission before any allocations would be given as this is what has been working in the past.

Mayor Pro Tempore Chang stated that she understands that the Council cannot change the total allotments as it is a fixed number.

Council Member Carr felt that the Council would be undermining the Measure E/P competition by creating a situation where anyone who does not receive the exact point totals they want in a given competition would contact individual council members to lay out their case, trying to convince the council members as to why they should be given allotments regardless of the competition that just occurred. The Council would individually have to go through each one of the projects without the benefit of having been a part of any of the hearings for the competition. He felt that the appeals should

be based on the competition itself and whether or not projects were scored fairly compared to other projects based on the rules established in advance of the competition. He did not believe that the appeal process was one that a project was better regardless of the rules. However, if the Council did not believe that projects were evaluated fairly, it should be sent back to the Planning Commission, advising them they should consider a particular point.

Mayor Pro Tempore Chang felt that should the Council change the points for a project(s), it would be the same as changing the allocations. She felt that the Council should have the prerogative to change both the point score and the allocations. She stated that if the Council is not able to change the allocation, it is not an appeal process.

Mr. Oliver stated that had the Council granted additional points to the two projects that appealed the Planning Commission's point totals, this would have changed the scoring and ranking. This would result in the projects going back to the Planning Commission, and that the Planning Commission would have to reallocate the units. Therefore, the Council's appeal process conducted this year was a valid one. It reached a result that did not change the rankings. Therefore, the Planning Commission did not have to go back and reallocate. He stated that the Planning Commission's distribution of allocations was conditioned on what action took place on the appeals. He noted that the Council made some adjustments to the projects' points but not enough to change the ranking. In hearing an appeal about a particular category where an individual felt that they were misunderstood by the Planning Commission and that all facts were not taken into account, the Council takes this into account and determines whether the project proponent is entitled to an extra point(s). He felt that the Council should do this with blinders, not knowing whether it would/would not change the allocations. The Council should make a decision as to whether a project warrants an additional point, sending the project back to the Planning Commission. Should a project's total score change the ranking, the Planning Commission will have to change the ranking. This results in the appeal process being valid and is sanitized. He said that appeals should be considered before the Planning Commission makes the allotments. He said that the process got compressed this year based on a host of circumstances where this would not have normally happened.

Mr. Lyle further noted that staff initially scores the projects. Staff's recommended scoring goes before the Planning Commission. Applicants talk to the Planning Commission about their scores, resulting in the Planning Commission given staff direction. Staff modifies scores based on Planning Commission direction. The scores return to the Planning Commission where applicants are given an opportunity to address the Planning Commission about the point scores. If applicants appeal, the appeal goes before the Council. The Council can direct and make point score changes. He said that 24 of the 25 years the RDSC process has been in affect, allotments have not been handed out prior to the appeal process. In the appeal process, staff will go back to see if any other projects are also entitled to a point based on the ruling of the City Council as the Council's reasoning for awarding points to an appellant may apply to other projects. At this point, the City has final scores. If you look strictly at Measure P, not even the Planning Commission had any discretion with respect to actually passing out the allotments as it was rote. With the new criteria, it blesses the flexibility of past practices.

Mayor Kennedy said that as he reads the appeal procedure as cited on Section 18.78.130(a), it states that “An applicant may appeal to the City Council pursuant to subsections B or C of Section 18.78.125. He noted that this specifically refers to the point scoring process. Therefore, this answers his question.

City Attorney Leichter noted that the proposed modifications strike the term “allotment evaluation” contained in Section 18.78.125, subsection B and specifically included the term “scoring.” To be consistent, she recommended that this change be made to Section 18.78.130 subsection D if this is the Council’s direction.

**Action:** *By consensus, the Council **agreed** to the language modification as suggested by City Attorney Leichter.*

Council Member Sellers said that he was a little anxious about insuring that the Council is able to do what it wants to do through the Downtown Plan, the General Plan, and the next RDCS measure. He wanted to make sure that the Council allows flexibility in the competition process to allow the City to proceed with the different housing models that are emerging. He said that one of the issues trying to be addressed is the fact that Measure P is somewhat restrictive and the City ends up with too many projects that look similar. If this becomes the case in the downtown area, he did not believe that projects would be built. If they do get built, they would not be the highest and best use. This would become a critical issue in the downtown. He inquired whether any thought was given by the Committee, in its discussions, on how to address different housing models in the downtown. He inquired whether a separate committee should be established or has a discussion within the Planning Commission take place so that the downtown projects are reviewed in a way that would allow for more creativity and flexibility in the design elements so that the City is able to maximize the value of the projects to be built in the downtown.

Council Member Tate stated that not only does the recommended change afford flexible criteria; the Measure P Update Committee has added a new category to the criteria that is aimed directly toward achieving creative housing in the downtown.

Council Member Carr felt that there are a lot of things outside of Measure P that the City could do and should be doing to help promote downtown growth both in zoning and the other items that the Downtown Plan addresses. He felt that the City needs to start the conversation about implementation. He felt that Measure P and the update to Measure P would play an important role on how the City achieves the kind of housing desired in the downtown but that there were a lot of other items outside of Measure P that the City needs to do as well.

Council Member Sellers felt that the Council, Planning Commission, the downtown and the community, as a whole, has a lot of work to do to make sure that it gets the kinds of projects that it desires. It was his hope that the text amendments would allow for this. He said that he has read through the proposed text amendments several times and felt that it would encourage the housing types desired. He felt that there has to be an appeal process in place, noting that the initial Measure E drafters recognized this fact and that this was carried to the Measure P initiative. He said that the bar has to be high for the appeal process and felt that it was. He felt that the problem with the appeal process this year was that the City did not go through the process as defined. He noted that a mechanism is in place and felt that the City

needs to reconsider the appeal process after the measure passes to make sure that the City allows for adequate time. The Council needs to talk to the Planning Commission about the City's processes so that the process does not get extended in such a way that problems arise in the appeal process. He felt that the appeal process was an internal problem. He noted that the only substantive changes before the Council was the allocation/allotment wording and using the term "scoring" instead of "allotment." He inquired whether there were any other amendments that need to be identified.

City Attorney Leichter informed the Council that staff has edits which it believes are grammatical in nature and should not be substantive. She requested Council direction and that staff would return on October 15, incorporating identified changes. She indicated that the City has 120 days after the initiative is enacted to amend specific policies. If the Council is contemplating that there will be fairly substantive amendments to City policies once the initiative passes, the Council may wish to make this time period longer.

Council Member Sellers felt that a lot of the City's policies were adequate but that the City has not gone about them the right way.

Mayor Kennedy noted that the Planning Commission would score projects and that the appeals would go the Council. However, the way the language is written, it states that the Planning Commission awards the allotment, followed by the appeal process (Section 18.78.125, the last part of paragraph C). He inquired whether the Planning Commission was actually awarding allotments prior to the appeals being considered by the Council.

Planning Manager Rowe noted that the measure talks about using the most recent population estimates from the Department of Finance. The previous year's population estimates were used when the Council authorized that a competition be held. However, the City holds off on the actual award of allocations until the next year's population estimates are released at the end of April or first part of May. He indicated that there is a preliminary ranking based on the previous year's population estimate formula. However, the Planning Commission adjusts the ranking once the City has the benefit of the most recent Department of Finance population estimates released in the spring of each year.

Mayor Kennedy inquired whether it would be appropriate to ask that Measure P Update Committee to review the appeal process.

Council Member Carr indicated that the Measure P Update Committee has concluded its charge.

Council Member Tate said that the Measure P Update Committee could meet again, if directed by the Council.

Mayor Kennedy expressed concern that the City has a process it has been following that is not consistent, referring to Section 18.78.125 – Award and Issuance of Allotments, paragraph C, last sentence. He said that paragraph C is where there is discussion about the actual awarding of allotments. The last sentence states "Where allotments are made on the basis of comparative standing on the list, any applicant who has received the required minimum number of points but who is not high enough on the list to receive a development allotment, may appeal its scoring to the City Council..."

Council Member Tate recommended the deletion of “but who is not high enough on the list to receive a development allotment” from said sentence.

Council Member Carr said that when the Planning Commission conducts its scoring of Measure P applications, they set a threshold that they know no one will receive an allotment based on points. Based on the number of units available, it is indicated that any projects below this threshold number will not be receiving allocations. He interprets Section 18.78.125 to read that anyone below this threshold has the ability to come before the Council and appeal. It is not that allocations have been given out but that it is referring to those projects that are not high enough on the list to receive a development allotment.

City Manager Tewes indicated that allotments are always awarded on a comparative standing, even with set asides.

Mayor Kennedy indicated that he would like to clarify what the City is doing with what is written, making them consistent with one another.

**Action:**        *On a motion by Council Member Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) **Continued** Review to October 15, 2003, taking into account the comments addressed.*

## **15.    POLICY DIRECTION REGARDING OWNERSHIP ATTACHED HOUSING**

Planning Manager Rowe presented the staff report indicating that there are fewer and fewer insurance carriers that are providing construction liability coverage for residential development that includes attached housing. He indicated that the cost for this insurance has increased significantly. When this matter was introduced before the Planning Commission, the Commission established a subcommittee to investigate what approaches can be undertaken to address this issue. Staff confirmed that there are only two insurance carriers that are providing this type of coverage and that the costs of the premiums have raised significantly. Therefore, the per unit cost for insurance is significant. In trying to come up with a solution, in order to get insurance coverage for detach units, a number of approaches have been considered: 1) look at projects on a case by case basis; or 2) look at developing a more comprehensive ordinance that would apply to all projects in the City that are currently required to provide attached housing. He indicated that the subcommittee met last Friday, attended by Council Member Tate. He stated that it will be the Committee’s recommendation to the Planning Commission and the City Council that the City look at a comprehensive ordinance approach because it is felt that it is one that could be completed in a shorter period of time. He indicated that an attachment to the staff report addresses the pros and cons of the two models. He said that one of the changes being recommended by the subcommittee with respect to the comprehensive ordinance is not to make it a mandatory requirement that units be separated. This would allow builders who are able to secure the liability coverage to proceed with a more traditional attached housing project. He requested that the Council provide direction to staff and the committee whether it supports a zero lot line as a setback approach to work around the construction liability coverage problem. If so, is this something that can be supported

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through the development of a comprehensive ordinance or should this be considered on a case by case basis?

Mayor Kennedy opened the floor to public comment.

Rocke Garcia stated that this is an extremely critical situation to his project. He said that at his Madrone project, he will only be able to build five more units and then the project would be stopped. He indicated that he serves on the subcommittee who has discussed solutions such as zero lot lines, z-lots, to very innovative possibilities in order to detach homes and allow developers to attain insurance.

Dick Oliver indicated that he also serves on the subcommittee. He said that it was staff's recommendation that the City utilize a project by project review. It was the subcommittee's consensus that the City should go through a comprehensive review. He said that the problem occurred because 10% of a project has to provide attached housing. He has a project where it is impossible to attain a reasonably priced insurance rate at this time. Therefore, the project had to stop construction. Both Coyote Ranch and Mission Ranch got insured before the crises developed. However, these projects will face the insurance problem with the next phase of development. He stated his support of the comprehensive approach with the need being determined by the Director of Community Development or his/her designee. It was his belief that a developer should demonstrate a need that is determined by staff without coming before the Council. If staff determines one way, a developer can appeal through the normal process; appealing to the Planning Commission and the City Council to override staff's determination. This would save at least six months in the process. He indicated that the Architectural Review Board is trying to set up a subcommittee to review the issues quickly to provide their input to staff. He said that the provision being suggested would have an automatic termination in two years with an automatic requirement to review it in twelve months. This would allow staff, Planning Commission and City Council to monitor the comprehensive approach to ensure that what is being done is not wrong for the community. He felt that there is a safe guard associated with the comprehensive approach. He indicated that the main issue is timing as he has a project that needs to get started.

No further comments were offered.

Council Member Tate indicated that the staff report was submitted before the subcommittee's meeting on Friday. Therefore, the information contained in the staff report was prior to the meeting held on Friday. He said that the subcommittee's recommendation was not contrary to the staff report. He stated that it was the project by project approach that was being recommended by the subcommittee, but under the supervision of a comprehensive ordinance. The subcommittee is recommending that staff and a subset of the ARB conduct a project by project review so that it is a subset of the normal process. This would allow the City and developers to attain the benefit of fast tracking. He felt that it was highly desirable to keep projects on track and make the projects work so that allocations are not lost. If every commission was involved in the project by project approach, extensions would be necessary for the projects. He stated that the subcommittee was trying to avoid the extensions that would result.

Council Member Sellers inquired whether the subcommittee would develop the comprehensive ordinance and bring it back to the Council for its consideration. In the interim, will the City utilize the project by project approach?

Council Member Tate indicated that City Attorney Leichter looked at an emergency ordinance as the right way to go. However, she indicated that the City could not justify the emergency nature of an ordinance. Therefore, the subcommittee is looking at a comprehensive ordinance.

City Attorney Leichter indicated that some work will have to be done to come up with the findings to justify an ordinance change.

Council Member Tate said that it was his understanding that the Council does support the use of zero lot lines and reduced setbacks when he was assigned to the subcommittee.

**Action:** *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council unanimously (5-0) **Approved** the Subcommittee's recommendation to proceed with a Comprehensive Ordinance that would have staff and a subcommittee of the ARB to conduct a project by project review. Staff to return with a draft ordinance for Council consideration at its next meeting.*

## **16. ART IN PUBLIC PLACES**

Business Assistance and Housing Services Manager Maskell presented a brief staff report.

Mayor Kennedy opened the floor to public comment.

Wes Rolley indicated that both he and his wife are local artists. He expressed concern that public art has been drug out for a while. He requested a process be developed by which the City can acquire, install, and maintain art in some of its major public venues such as the community and cultural center and other public facilities within the City. If the City continues down the path of trying to iron out a public arts policy, he felt that the City would be holding the same discussion next year. He was interested in seeing the process be put into place so that something can be done rather than spending another year talking about it.

Chuck Dillmann felt that the City is headed for a potentially big program and that it was important that this be considered. He recommended that the Council establish quality standards for art and that it turns public art over to another organization for administration and funding. He felt that there was enough going on in the City without trying to administer a large arts program. He said that he watched the fine arts commission of the City of San Jose when it undertook public art, noting that it was a massive undertaking.

No further comments were offered.

Mayor Kennedy indicated that he reviewed a portion of the video of the Council meeting where this issue was discussed. He recommended that the City move forward with public art. He recommended that the City start by establishing a policy on the remaining public projects and devote 1% of the project's budget toward art. He said that it was his recollection that the Council decided that it did not

want to form an arts commission but rather rely on the private sector to handle the art program for the City.

Council Member Tate indicated that the non profit agency identified refused to take on public art. He did not support requiring 1% being applied toward public art for each project. He felt that the Council may want to require more or less be applied to various public projects. He said that there has been discussion about placing 1% into a fund that can go to other areas, which may result in a project being cut. He could not support this action.

Council Member Sellers felt that the Council could state that it wants public art in subsequent public facilities such as the aquatics center, the indoor recreation center, and the library. He said that the aquatics center may be able to incorporate a mosaic as part of the process that does not add cost to the project. He felt that the City can be creative and that it may be the public sector that would help put public art together. This would result in the City achieving the art that it wants. The question that keeps being raised is who will determine what the art will be. He said that this is another issue that may not be resolved this evening but that it has to be considered. He recommended that the Council agree to include public art in these public spaces and work towards this goal. The Council could work toward developing community resources for art. He noted that the Morgan Hill Community Foundation will be holding an art day in the near future. This may be a way to try to figure out, through the private and non profit sectors, whether the City can develop art in existing places. He said that it may be as simple as stating that in the Community and Cultural Center, space has been designated for art and that the walls in the hallways will have constant rotating art, working with staff to make sure that they are rotated on a regular basis.

Mayor Kennedy summarized that the Council would support a policy of providing art in public buildings, in the design or in construction underway, including the aquatics center, the indoor recreation center and the library. The Council is to assist in the development of a non profit or work with a non profit group to develop a process for the right public art. The City is to set aside locations in existing public spaces for art on a rotational or permanent basis. He stated that he would like to help move this process along. He felt that Council Member Sellers suggestion would help as a starting point.

Council Member Carr said that at the Council workshop, one of the comments stated was that the Council should be the body to make the decisions on public art rather than trying to develop another body. He stated that the City does not have the resources to develop another commission or another non profit organization at this time. He noted that at the prior Council workshop, the Morgan Hill Community Foundation stated that they were not interested in taking over public art. He stated that the Council could review and approve public art as part of its normal process in approving projects rather than asking another body to do so.

Mayor Kennedy recommended that the Council start the process, appointing a subcommittee with the goal of bringing on board one of the non profit organizations to pick up public art, turning public art over to a non public, non profit group.

Council Member Carr felt that as the Council approves each of the public projects; it should include public art and not pass on the Council's responsibility.

Council Member Sellers clarified that his recommended motion would be that the Council include public art in the aquatics center, indoor recreation center and the library; determining the type of art that would be approved. Concurrently, the Council needs to figure out how to encourage art work. He noted that the Community and Cultural Center has walls that could accommodate art. He recommended that the City formalize the process and encourage opportunities. There could be other areas that the Council could designate space and then work with non profits and others to place art in these places (e.g., lawn area in the community and cultural center.)

Council Member Carr felt that the long term goal should be to broaden beyond the three projects identified by Council Member Sellers. He stated that he was not opposed to looking at private projects, especially when they are receiving city assistance. He said that he understands the reason the Council wants to include public art as part of these projects. However, the Council has stated that it wants to include other design features that have not made it into some of the City's public projects. Whether it is a percentage basis of each project or a percentage off the top of the reserved RDA funds, he would feel more comfortable if the City is guaranteeing that this takes place. He noted that the Council set a goal of LEEDs certification for City public projects, noting that the Council approved an action this evening of not doing so with one of the City's project. He sees that this could happen with public art.

Mayor Pro Tempore Chang recommended that each public project be required to program \$50,000 for public art. She felt that requiring 1% for public art may be too much. If 1% is required for the indoor recreation center at a project cost of \$26 million, it would result in \$260,000 for public art. She stated that she would have a hard time requiring this amount being set aside for public art.

Mayor Kennedy recommended that the indoor recreation, aquatics and the library committees identify a public arts budget.

Council Member Tate stated that he would not approve any motion that commits city funds. He noted that the Council is conducting value engineering on every single project that it has. He does not know why art, as well as LEEDs certification and other items, are not subject to value engineering to allow the City to come up with the optimal solution for the project that the Council wants to deliver. He did not want to commit funds when the Council does not have the budget to complete all the visioning projects.

Mayor Kennedy felt that there may be some things the City can do, artistically, as part of a project with the funds remaining, as a goal.

Council Member Tate stated that he would support establishing public art as a goal but not committing funds to it, reviewing the various approaches as it may create innovation and suggestions on how to provide public art.

Council Member Sellers concurred with Council Member Tate that setting a goal would give the Council the flexibility to do what it wants to do.

**Action:**        *On a motion by Council Member Sellers and seconded by Mayor Kennedy, the City Council unanimously (5-0) **Agreed** to establish public art as a goal in subsequent public*

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*facilities such as the aquatics center, the indoor recreation center, and the library; but not committing public funds, reviewing the various approaches that may create innovation and suggestions on how to provide public art.*

Council Member Sellers said that it would be unfair to impose public art on the private sector based on today's economy, noting that the City also faces constraints. Other than continuing to encourage art organizations in the community, he was not sure what else the City could do.

Mayor Kennedy stated that he would be willing to work with Council Member Sellers and the Morgan Hill Community Foundation to address public art.

Council Member Carr supported Mayor Kennedy and Council Member Sellers discussing public art with the Morgan Hill Community Foundation, requesting a timeline so that they can return to the Council if the discussion is not going anywhere as he is also interested in continuing this conversation.

**Action:**        *By Consensus, the Council **agreed** to consider item 18 at this time.*

## ***Redevelopment Agency and City Council Action***

### **OTHER BUSINESS:**

#### **18.    OFF-SITE IMPROVEMENTS FOR DAY WORKER CENTER**

Director of Business Assistance and Housing Services Toy presented the staff report.

Chairperson/Mayor Kennedy opened the floor to public comment. No comments were offered.

**Action:**        *Mayor Pro Tempore/Vice-chair Chang made a motion, seconded by Council/Agency Member Sellers to **Direct** Staff to Negotiate and Prepare the Necessary Agreements, Not to Exceed \$175,000, to Fund the Off Site Improvements for the Day Worker Center; and to **Bring** Such Agreements to the Redevelopment Agency Board for Consideration*

Council/Agency Member Sellers stated that he was encouraged to read, in the staff report, that there are opportunities for lowering the costs and coming up with creativity. He encouraged staff to be as creative as possible due to the uniqueness of this project. He said that this project would not have proceeded without the cooperation and strong encouragement of Weston-Miles and the diligence of Mayor Pro Tempore/Vice-chair Chang. He noted that Weston-Miles did not have to allow the day worker facility at the front end of their project. Although the Council/Agency structured the initial project as a requirement, Weston-Miles will be donating significant architectural services.

Council/Agency Member Tate stated that there is no question that everyone wants to proceed with a day worker center. The City was able to use CDBG funds to help the process. However, he noted that this has never been a City project and that it is becoming more and more a city project. Now, the City is investing in a \$175,000 loan. He expressed concern that when the City gets the money back, the City

will lose what it was trying to achieve. He stated that the only way the City will get its money back is when the day worker center goes away. He said that he was trying to think about innovative things that would make it different. He inquired whether the day worker center will be that much of a city project that it has to keep all its money there to keep the day worker center, noting that this is only a three year commitment from the developer and that the developer can develop at the end of three-years. He inquired how the City can get the day care center it wants long term and solve the problem it is trying to solve. He felt that the City is putting a lot of money into a day worker center as a temporary fix. He was not sure if this was the right way to proceed.

Mayor Pro Tempore/Vice-chair Chang noted that the City is awarding the developer a loan to be repaid to the City. She said that it was her belief that the Dayworkers Committee is looking for a permanent location for the day worker center.

Council/Agency Member Tate inquired how a permanent day worker facility would be funded.

Council/Agency Member Sellers said that the money to be used would allow the completion of site improvements sooner than they would otherwise. Therefore, there are residual benefits to the downtown that would be complimented by establishing the dayworker center at this location. This would provide a significant positive impact to the downtown area. He said that it has been his experience that once entities get underway and start to develop momentum, it would be much easier to continue the momentum. He felt that the options after three years are going to be much more significant than they are at this time. He agreed that there should be some concern regarding long term plans for the dayworker center. However, he felt that the immediate benefits is seeing an improvement in the downtown and the long term opportunities to establish an entity that will be stronger and be in a much better position to continue their work down the road. These facts are sufficient for him to proceed with the recommended action.

Mayor Pro Tempore Chang invited Council/Agency members to assist and be a part of the New Year's major fundraising event. She said that all proceeds from this event will go toward the on site improvements for this project. She stated that this fundraising event will continue every New Year's Eve. She indicated that there is community support for the day worker center.

Council/Agency Member Carr stated that he has similar concerns to those of Council/Agency Member Tate. Based on what he has just heard from Mayor Pro Tempore/Vice-chair Chang, he has additional concerns. He inquired whether it is known what will happen after three-years. He is now hearing that there is another fundraiser planned and that Mayor Pro Tempore/Vice-chair Chang and Council/Agency Member Tate also put a lot of work into a previous fundraiser event held not too long ago. He stated that the City has invested a significant amount of CDBG dollars to get the ball rolling. He said that he would be comfortable with the action if he knew what would happen after the three-years. He indicated that when the granary project came before the Council/Agency Board, he suggested that the City take a look at the vision for the overall piece of property. The City would then know how the dayworker facility would fit in with the overall plan of the property and the timeline when it will fit in so that the improvements are of a benefit to the downtown. The City could plan the improvements better so that they are not installed only to be torn out 2-3 years later and become a detriment to the downtown. He recommended that the Council/Agency hold off on this item and that it have the conversation of what is

the long term goal for the day worker facility instead of what is the quick fix with the investment of very limited funds. If the City is going to become this involved in a process, the Council needs to be talking about it more comprehensively.

Mayor/Chairman Kennedy noted that what is being discussed this evening is \$175,000 with the vast majority of these funds going toward improvements to the site that will be used by Weston-Miles in the development of their future project. He noted that \$47,000 of this fee is to be used for undergrounding of utilities in lieu fees. He said that the curb, gutter, sidewalk installation, sewer, and water, and storm drains are utilities on the site that will have an ultimate purpose, irrespective of what goes on site. He said that he and Mayor Pro Tempore/Vice-chair Chang have been working hard to try and cut the cost of the project so that the City is not going to be wasting a lot of funds that won't be recoverable. He said that the vast bulk of the funds are going to be applied to the site itself and that Weston-Miles will be paying back the bulk of these funds in their loans as they develop the site. He does not see the action becoming a risk to the City.

Council/Agency Member Sellers noted that the recommendation is to allow staff to go back and negotiate at a not to exceed amount. He stated that the documents would return to the Council/Agency for its approval. Therefore, he was comfortable in proceeding this evening but that in order to address Council/Agency Member Carr's concerns; he encouraged the dayworker center entity to address his concerns concurrently with the negotiation process. He felt that Weston-Miles could help answer some of these questions to a degree.

Mayor/Chairman Kennedy stated that he senses that there is a 3-2 split vote on this item. He did not believe that further discussion would change the vote much at this point. Therefore, he called for the question.

Council/Agency Member Carr stated that regardless of how the Council/Agency Members vote on this item, it should not be seen as support or non support for the dayworker center. He noted that the entire Agency/Council approved the CDBG funding source.

**Vote:**            *The motion carried 3-2 with Council/Agency Members Carr and Tate voting no.*

## ***City Council Action***

### **17. COUNCIL DISCUSSION OF ADVISORY COMMITTEE AND COMMISSION COMMUNICATIONS AND REPORTING RELATIONSHIPS, INCLUDING ROLE OF COUNCIL LIASONS**

Council Member Tate indicated that this item came out of his attendance at a September 2003 Senior Advisory Committee meeting. He stated that the Senior Advisory Committee got to the subject of the indoor recreation center. He said that the report from a subcommittee member of the Senior Advisory Committee generated discussion where a lot of items were questioned. He said that there were a lot of questions regarding the nutrition program in terms of whether two kitchens would be necessary, etc. He was not sure if these questions have been resolved to the satisfaction of the Senior Advisory Committee. He indicated that staff is putting together a detailed report on everything that has been done on the

nutrition program that establishes why the Council believes it is heading in the right direction for the indoor recreation center. He stated that his concern was not as much for the nutrition program as some of their statements that reflect about the Council and committee/commission relationships. He said that comments from the Senior Advisory Committee include the following: There is no way that they can change the Council's mind as the Council's mind is made up. The City is moving backwards and that that they do not see any purpose in the actions being taken by the Council. The same square footage is being proposed for the indoor recreation center with no convenient access similar to that of the current location. The Council promised that there would be interaction with the youth and that they see that this has gone away. He said that if the Council is going to have an advisory committee and the advisory committee is questioning the Council to this degree, he did not believe that this is working from a reporting relationship stand point. He stated that he understands that there is a complication in reporting through the Parks and Recreation Commission as well so the Senior Advisory Committee does not have direct input to the Council. He took their comments as being a red flag such that the Council needs to establish a relationship so that it gets itself in sync with the Council's advisory committee, especially when there is a commission in between. He felt that this red flag needs to be addressed and that the Council needs to have a conversation on how it can address or prevent these kinds of issues occurring in the future.

Council Member Sellers stated that the Indoor Recreation Center subcommittee would like to improve/increase its communication process. He stated that he and Mayor Pro Tempore Chang discussed the process and how the subcommittee could encourage opportunities for public communications not only through the formal CEQA process whereby communications are conducted through neighborhoods but to encourage a broader community process, including senior citizen input and opportunities for input. He said that the clarification of issues is a concern as well. He stated that he would be attending the next senior advisory committee on October 7. He said that he has met with a couple of Senior Advisory Committee members and has addressed some of their concerns. He indicated that the issue of the kitchen will be addressed next Tuesday. He said that there has been some concern raised that the new indoor recreation center will be the same size as the current facility. He felt that the Council needs to engage the Senior Advisory Committee in the programming and use of the spaces at the indoor recreation center facility. He indicated that the senior component will have the youth center facility on one side and that some of the offices and daycare/childcare facilities are located in the same general vicinity. Access was also a big issue. He stated that significant design modifications were made so that vans and other transportation vehicles can access the site more closely. He stated that the Indoor Recreation Center subcommittee will be engaging the Senior Advisory Committee more directly and meeting with them next week to try to address these issues.

Mayor Kennedy inquired whether it was time for the Senior Advisory Committee to report directly to the Council as has been done in the past. He requested that staff look into this possibility and determine if there are any additional costs associated with this direct reporting mechanism.

Council Member Tate felt that the City has excellent staff to the Senior Advisory Committee, the Library Commission and the Youth Advisory Committee. He indicated that he has been attending some of the youth advisory committee meetings and that Marilyn Leibers has been assigned by the Parks and Recreation Commission to serve as their liaison to the committee, attending every meeting. He was not sure whether it was the reporting directly to the Council versus reporting through the Parks and

Recreation Commission that is the issue, noting that he has attended three Senior Advisory Committee meetings but has not seen a Parks and Recreation Commission member in attendance. The issue may be the liaison role for these committees.

Mayor Pro Tempore Chang noted that most of the Council members have a close relationship with the Parks and Recreation Commission. She stated that the Parks and Recreation Commission are not happy with some of the decisions being made by the Council. She felt that the Senior Advisory Committee and the Youth Advisory Committee are advisory committees. She inquired whether it was felt that the Council has not done a good job informing them or incorporating their comments; or was it an issue that the Council did not do exactly what they recommended.

Council Member Sellers felt that the problem is that the Council did not walk the Senior Advisory Committee through the programming/spaces for the indoor recreation center.

Council Member Carr felt that this was a discussion that the Council needs to continue. He suggested that the Council talk more globally about how all of the commissions and task forces report to the Council and how the Council gets word and direction to them. He noted that the Council has liaisons to some boards, commissions, and committees and task forces but not to others. He recommended that the Council consider whether it wants to have Council liaisons or not have liaisons to these bodies. He recommended that staff give thought to reporting up and down and the Mayor's suggestion of whether things should be reported directly to the Council. The Council can have a larger discussion about the entire process at a later date.

Council Member Tate felt that Council Member Carr is stating that it is not just the Council liaison that is an issue but the expectations of liaisons.

**Action:**        *By consensus, the Council **directed** that this item be re-agendized for further discussion.*

#### **FUTURE COUNCIL-INITIATED AGENDA ITEMS**

- Discussion of an ordinance to address the Tobacco issue addressed earlier this evening (Council Member Tate)
- Move ahead with the downtown plan in terms of zoning as suggested by Brad Jones (Council Member Tate).
- SCRAW workshop (Mayor Pro Tempore Chang)

Council Member Sellers noted that the Council is considering attending a retreat in January or May 2004. He suggested the Council confirm the January retreat where all council members and staff are in attendance. He noted that January 21 is scheduled to be a Council meeting night. Therefore, the Council would need to adjust its January schedule or cancel this meeting. He requested that this be done at this time as he has scheduling issues.

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**Action:**      *By consensus the Council **agreed to proceed** with the January 21-23, 2004 League of California Cities leadership workshop, canceling the January 21, 2004 Council Meeting.*

**ADJOURNMENT**

There being no further business, Mayor/Chairman Kennedy adjourned the meeting at 10:30 p.m.

**MINUTES RECORDED AND PREPARED BY:**

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**IRMA TORREZ, CITY CLERK/AGENCY SECRETARY**